

CALIFORNIA COASTAL COMMISSION

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DATE: October 22, 2003

TO: Commissioners and Interested Persons

FROM: Charles Damm, Senior Deputy Director
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Melanie Hale, Supervisor, Planning and Regulation
Shana Gray, Coastal Program Analyst

SUBJECT: Santa Barbara County Local Coastal Program Amendment No. MAJ-3-02 (Toro Canyon Planning Area) for Public Hearing and Commission Action at the Thursday, November 6, 2003 Commission Meeting in San Pedro.

DESCRIPTION OF THE SUBMITTAL

Santa Barbara County is requesting an amendment to the Land Use Plan and Implementation Plan portions of its certified Local Coastal Program (LCP) to designate the Toro Canyon Planning Area (hereafter "Toro Canyon"); add associated Toro Canyon goals, policies, actions, and development standards as described in the Toro Canyon Plan (hereafter "Plan"); and adopt implementing zoning district and overlay maps. Toro Canyon is located in southeastern Santa Barbara County, in the western portion of the Carpinteria Valley between the Santa Ynez Mountains and the Santa Barbara Channel. The amendment will result in changes to the certified Santa Barbara Coastal Land Use Plan (hereafter referred to as the LUP/CP) and to the certified Santa Barbara County Coastal Zoning Ordinance (hereafter referred to as the IP/CZO).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing, **deny** the amendment to the certified LCP as submitted; then **approve, only if modified** as revised by the suggested modifications. As submitted the Land Use Plan and Coastal Zoning Ordinance amendments are inconsistent with various policies in Chapter Three of the Coastal Act pertaining to land use, agriculture, hazards, public access, visual resources and protection of coastal waters and environmentally sensitive habitat areas. As modified the amendment is consistent with Chapter Three of the Coastal Act. The motions to accomplish this recommendation begin on **page 8**. The suggested modifications begin on **page 10**.

STAFF NOTE

This LCP amendment was presented to the Commission at the October 8, 2003 hearing. The application was continued at this hearing due to concerns raised by the Commission regarding the level of detail of the Commission staff review and the ability of the County staff and public to digest the extensive recommended changes. At the Commission's request, this item has been rescheduled to be heard at the Commission's November hearing in San Pedro. The one-year time extension expires November 27, 2003 and **therefore the Commission must act upon the subject LCP amendment at the November hearing.**

Staff has prepared a revised document based upon the Commission's recommendation at the October hearing to work with the County to focus changes and reduce the total number of suggested modifications to only the key resource issues. Commission staff met with the County Planning staff on October 16 and 21, 2003 to discuss the bulk of the resource issues. Though the Commission staff has made a considerable effort to reorganize, consolidate, and reduce the number of suggested modifications, the County staff has indicated that they believe modifications are not necessary.

Additionally, the Commission's Water Quality Unit met separately with appropriate County staff to develop an alternative approach to apply appropriate water quality provisions given that the County is seeking the approval of a Storm Water Management Program through the Regional Water Quality Control Board and submitted the draft Plan to the RWQCB in August 2003.

Because the changes in the staff recommendation reflect a consolidation and general reduction in suggested modifications and the overarching topics remain the same, staff notes that the findings in the September 24, 2003 report for the general resource sections (LCP Organization and Implementation, Scenic and Visual, Hazards, Watershed Protection, Agriculture, ESH, Public Access and Land Use) are adequate to support the revised recommendation. Therefore, the September 24, 2003 staff report and addendums are attached to this staff report and provide the findings for the revised staff recommendation, with one exception. The water quality findings are included in this report due to the change in approach to water quality recommendation. Staff recognizes that revised findings will be necessary based upon the Commission's final action at the November hearing.

Approximately 2,150 acres are situated within the coastal zone portion of the Toro Canyon Area Plan. While this area is clearly only one small portion of the County's total land within the coastal zone, it is similar to the size of coastal zone jurisdictions of the neighboring Cities of Carpinteria (1,521 acres) and Santa Barbara (2,669 acres) and equal in its need for protection under the Coastal Act. The Commission has in the past, encouraged a more detailed review of comprehensive updates and LCP amendments. In this case, Santa Barbara County has submitted an area plan LCP amendment for one portion of its area within the coastal zone. The County does not anticipate an update of the existing

Countywide LCP (certified in 1982) in the foreseeable future, and has historically submitted individual Area Plans to the Commission for the geographic subareas within its jurisdiction.

The Toro Canyon area provides a predominantly rural environment with significant agricultural development, including greenhouses, and pockets of residential development. Even with the significant development that has occurred, it is evident from reviewing aerial photographs of the area (see Exhibit 16) that there are still significant natural resources remaining in the area such as continuous Southern Coast Live Oak Forest along Toro Canyon Creek and the native chaparral community remaining on the steep slopes leading up to Paredon Ridge. It is also evident that Santa Barbara County, similar to many coastal communities throughout California, faces increasing development pressure for residential and agricultural growth. Toro Canyon is no exception. Agriculture has historically resulted in the removal of vegetation that would by today's standards be considered ESH, in some cases lies adjacent to major creek corridors, and has moved ever farther up onto steeper slopes such as orchards on 30% slopes. The residential pressures are equally as strong. The rural location and larger parcels sizes are ideal for increasing mansionization, with proposals for large-scale residential developments that may include a host of accessory uses (sports courts, caretaker residence, art studio, etc.) and a primary residence of immense proportions (up to 20,000 sq. ft.). This type of residential development is particularly detrimental to the long-term viability of agriculture when such extensive residential compounds are developed on agricultural parcels. Over time, as each parcel gets developed with larger and more residential development, the agricultural potential is reduced.

As recognized by the County through this effort, the Toro Canyon area is constrained and cannot support development pressures of this nature. As a result, the County is proposing the downzoning of many agricultural parcels and has provided a host of additional policies in the Toro Canyon Plan. Staff recognizes that the County and local public participants have invested considerable time and effort to develop the Toro Canyon Plan, which in many instances may provide additional protection. While this has been successful in many instances, there have also been areas of compromise which serve to lessen the protection afforded under the existing LCP (e.g., ESH) and which create some ambiguity as to the implementation of the Toro Canyon Plan requirements (e.g., reasonable use language). Conversely, the Coastal Act requires a level of specificity that provides predictable implementation and an identifiable outcome, consistent with the Chapter Three policies of the Coastal Act.

For the above reasons, Commission staff continues to recommend significant, albeit reduced, changes to the Toro Canyon Plan that protect coastal resources consistent with the Chapter Three policies of the Coastal Act. The main topics addressed in the revised modifications include water quality and watershed protection, land use, agriculture, environmentally sensitive habitat areas, flood control, public access and shoreline protection.

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LIST OF EXHIBITS

- Exhibit 1.** County Resolution 02-065 for Submittal of LCP Amendment
- Exhibit 2.** County Resolution 02-062 for Proposed LUP/CP Amendments
- Exhibit 3.** Proposed Zoning Ordinance Amendments (Ordinance No. 4448)
- Exhibit 4.** Proposed Zoning Map Amendments (Ordinance No. 4449)
- Exhibit 5.** ESH Map Changes Butterfly (As Suggested in Modification No. 43) and Kelp (As Suggested in Modification No. 43)
- Exhibit 6.** ESH Map Changes Wetland (As Suggested in Modification No. 43) and Monarch Butterfly (As Suggested in Modification No. 43)
- Exhibit 7.** Urban / Rural Boundary Maps
- Exhibit 8.** Toro Canyon Plan ESH Map
- Exhibit 9.** Toro Canyon Plan Steep Slopes Map
- Exhibit 10.** Correspondence Dr. Meade to County Staff
- Exhibit 11.** Correspondence Coastal Commission to County Staff
- Exhibit 12.** Agriculture Viability Report
- Exhibit 13.** Memo from Dr. John Dixon Regarding ESHA
- Exhibit 14.** Aerial Photograph of Torito Road Rural Neighborhood and Proposed Agriculture Conversion Parcels
- Exhibit 15.** ESHA Map enlargement of Torito Road Rural Neighborhood
- Exhibit 16.** Toro Canyon Plan Coastal Zone Aerial Photograph
- Exhibit 17.** Policies Excluded From Certification

LIST OF ATTACHMENTS

Attachment A. Toro Canyon Plan

Available Online at:

http://countyofsb.org/plandev/comp/planareas/toro/pc_recommended_plan/plancover.html

Attachment B. Commission staff report dated September 24, 2003 & Addendum

Attachment C. County of Santa Barbara Draft Stormwater Management Program, dated August 8, 2003

Available Online at: www.countyofsb.org/project_cleanwater

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30513(c))

The Coastal Act further provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30514)

The standard of review that the Commission uses in reviewing the adequacy of the land use plan is whether the land use plan is consistent with the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County Local Coastal Program. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County held 25 public hearings and two public workshops and received written comments regarding the project from concerned parties and members of the public. The hearings were duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of the California Code of Regulations, the County resolution for submittal may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the County

must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (Section 13544.5; Section 13537 by reference;). Pursuant to Section 13544, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, as submitted, no further action is required by either the Commission or the County.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE LAND USE PLAN/COASTAL PLAN (LUP/CP)

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission CERTIFY Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan, as submitted by the County of Santa Barbara.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the land use plan as submitted and adoption of the following resolution. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan and adopts the findings set forth below on grounds that the land use plan as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan as submitted.

B. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission CERTIFY Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan, if modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY IF MODIFIED:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY THE LAND USE PLAN WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies Amendment STB-MAJ-3-02 to the County of Santa Barbara Coastal Plan if modified as suggested and adopts the findings set forth below on grounds that the land use plan with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan if modified.

**III. STAFF RECOMMENDATION, MOTIONS, AND
RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL
ZONING ORDINANCE (IP/CZO)**

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

A. DENIAL AS SUBMITTED

MOTION III: *I move that the Commission reject the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with,

and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

B. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION IV: *I move that the Commission certify County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-3-02 if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

IV. INTRODUCTION TO SUGGESTED MODIFICATIONS

Suggested Modifications: The staff recommends the Commission certify the following, with modifications as shown below. Language as submitted by the County of Santa Barbara is shown in straight type. Language recommended by Commission staff to be ~~deleted~~ is shown in ~~line-out~~. Language proposed by Commission staff to be inserted is shown underlined. Suggested modifications to revise maps or figures, or other instructional changes are shown in italics. Text *not* intended to be included as part of the modification which provides an internal reference or other orienting information is shown in [brackets].

Commission Review of Narrative Text: The Toro Canyon Plan amendment can be divided into two major categories. The first is narrative, which describes the Toro Canyon Plan Area, special issues with the Toro Canyon Plan Area, and the general basis for the various standards and policies contained in the Toro Canyon Plan amendment. The second consists of the actual standards and policies. It is this second division which is the focus of Commission review.

The proposed Toro Canyon Plan LCP amendment contains four levels of policy, titled “goals,” “policies,” “actions,” and “development standards.” All four of these levels are to be considered enforceable policies. Therefore, the standard of review for the County in permitting development under the LCP will be all goals, actions, policies, and development standards (as well as other implementing actions), with the exception of those listed in Exhibit 17. Any policies or map language designated as non-coastal are issues that are not addressed under the Coastal Act or are specific to areas outside of the Coastal Zone, and therefore are excluded from the certification of the LCP Amendment. For that reason, those policies are not analyzed as part of this submission.

Revisions to the policies, made through suggested modifications, in certain circumstances may make the background narrative obsolete. Descriptive narrative no longer consistent with the policies will need to be revised by the County to conform to the narrative of any associated policy that has been revised through suggested modifications as part of the submission of the final document for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

Organizational Notes: The addition of new policies or the deletion of policies (as submitted) will affect the numbering of subsequent policies, actions, or development standards when the County of Santa Barbara publishes the final Toro Canyon Plan incorporating the Commission’s suggested modifications. This staff report will **not** make revisions to the policy numbers. The County will make modifications to the numbering system when it prepares the revised LCP for submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

Global Text Suggested Modification: As submitted, the Toro Canyon Plan contained supportive narrative describing the basis for many policies. Some of these policies have been modified as a result of this Commission action. Consequently, the corresponding supportive narrative may no longer be relevant for supporting modified policies. The Commission empowers the County with the approval of the Executive Director to revise supportive narrative so that it will be consistent with the policies of the LCP amendment as modified through the suggested modifications. Since this policy refers to a global text revision, once the global text revisions are made, this policy does not need to be included in the amended Toro Canyon Plan. The modified narratives, however, must be approved by the Executive Director and reported to the Commission before taking effect.

NOTE: (1) The number(s) in brackets listed in each suggested modification heading, below, correspond to the previous/similar modification number(s) in the September 24, 2003 staff report. In many cases, the new modifications do not mirror the original suggested modifications and have been subsequently revised, reorganized, and/or reduced. (2) The text in parenthesis listed in each modification heading below indicates the policy, development standard, or action number as identified in the Toro Canyon Plan. If the suggested modification does not relate to an existing provision of the Toro Canyon Plan, the text denotes whether the proposed language is a policy or development standard and where such will be located within the document.

V. SUGGESTED MODIFICATIONS ON THE LAND USE PLAN/COASTAL PLAN (LUP/CP)

1. General Provisions (GOAL LUG-TC) [2]

All pertinent countywide Comprehensive Plan and Coastal Plan policies apply within Toro Canyon in addition to the specific policies and action items identified in this Plan. Consistent with LUP Policy 1-2, should any policy or provision of the Toro Canyon Plan conflict with any policy or provision of the certified Local Coastal Program, the policy or provision that is most protective of resources shall prevail. Consistent with LUP Policy 1-3, where the policies or provisions of the certified Toro Canyon Plan conflict with any other policy or provision of the County's Comprehensive Plan or other guiding standards, the Local Coastal Program shall prevail.

2. General Provisions (Policy LUG-TC-1) [3]

The Development Standards and Actions contained within this Plan shall be used to implement the policies of the Plan and ~~Where appropriate, these standards shall be applied to projects under review, unless a standard is inapplicable or ineffective and/or other standards have been required that more effectively implement the policies.~~

3. General Provisions (New Policy under LUG) [4]

In addition to the requirements of LUP Policy 2-11, development shall be scaled, sited and designed to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of roads and driveways; number and size of accessory structures; configuration and size of development envelopes including concentrating development in existing developed areas; amount and location of grading; vegetation removal; and night lighting.

4. General Provisions (New Policy under LUG) [5]

Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence.

5. Reasonable Use (Policy LUG-TC-4; Policy LUG-TC-6) [7, 8, in part]

a. Land Use and Zoning designations shall provide for reasonable use and development of property within given site constraints. Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically states/provides an exemption for "reasonable use of property," the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.

b. The Policies and Development Standards of this Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable

law. Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically provide an exemption for "reasonable use of property," similarly the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.

6. Non-Conforming Structures (New Policy under LUG) [9]

Existing, lawfully established structures that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below and in Policy BIO-TC-5 and DevStd BIO-TC-5.1 through 5.6 [cross reference to LUP Modification 26], additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the policies and standards of the LCP. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.

7. Certificates of Compliance (New Policy under LUG) [10]

Conditional Certificates of Compliance, or Certificates of Compliance issued for land divisions that occurred after the Coastal Act, shall require a coastal development permit appealable to the Coastal Commission.

8. Land Divisions (New Policy under LUG) [84, 124, 129, 130, 139]

Land divisions within the coastal zone, including lot line adjustments, shall be prohibited unless all proposed parcels:

(1) Can be demonstrated to be safe from erosion, flood, and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.

(2) Can be developed (including construction of any necessary access road), without building in ESH or ESH buffer, or removing ESH for fuel modification.

(3) Can be developed without requiring a current or future bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time during the full 100 year life of the development.

(4) Would not result in building pads, access roads, or driveways located on slopes over 30%, or result in grading on slopes over 30% and shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.

9. Prime Soils (New Policy under LUA) [17]

Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.

10. Fuel Modification (DevStd FIRE-TC-2.2) [20]

a. Development shall be sited to minimize exposure to fire hazards and reduce the need for grading, fuel modification (including thinning of vegetation and limbing of trees), and clearance of native vegetation to the maximum extent feasible. Building sites should be located in areas of a parcel's lowest fire hazard, and should minimize the need for long and/or steep access roads and/or driveways. Properties subject to high fire hazards requiring fuel breaks to protect the proposed structures shall use the Fuel Management Guidelines to establish fuel management zone(s) on the property (see Appendix D).

11. Public Access Santa Claus Lane (Action PRT-TC-1.4) [22, 29]

~~The County shall pursue Ppublic access to the beach from Santa Claus Lane. Public beach access shall be formalized as soon as feasible by: securing and opening a vertical accessway between Santa Claus Lane and the beach; by clarifying the status of lateral beach access rights, or by securing any easements that may be necessary and appropriate; In addition, the County shall ensure the provision of adequate coastal access parking including signage designating the parking for this purpose, developing one or more parking areas (also see Action CIRC TC 4.3); constructing appropriate safety features; and installing appropriate support facilities as described in Policy PRT-TC- [cross reference to suggested modification 12]. any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. Access for jet ski and other motorized recreational activity shall be prohibited from any coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the priority beach access for the Toro Canyon Plan area at the earliest feasible date. Permits for new development shall include conditions that incorporate measures that provide or protect access where there is substantial evidence that prescriptive rights exist, or where required for new development.~~

12. Public Access & New Development (New DevStds under Policy PRT-TC-1) [23, 24, 25, 28]

Public accessways and trails shall be provided in accordance with the following standards:

a. Offers to dedicate public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway should be opened within 5 years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association acceptable to the County expressly requests ownership of the easement in order to open it to the public, the easement holder may transfer the easement to that entity. A Coastal Development Permit that includes an offer to dedicate public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association acceptable to the County that requests such transfer, if the easement holder has not opened the accessway to the public within 5 years of accepting the offer.

b. Where there is an existing public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities, necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use. Facilities to complement public access to and along the shoreline should be provided where feasible and appropriate. This may include signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, picnic tables, or other such improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a precondition to the approval construction or opening of said accessways.

c. For all offers to dedicate an easement that are required as a condition of Coastal Development Permit approved by the County, the County has the authority to approve a private association that seeks to accept the offer. Any government agency may accept an offer to dedicate an easement if the agency is willing to operate and maintain the easement. The County may approve any private association acceptable to the County that submits a management plan that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded offer to dedicate the easement.

13. Public Access Padaro Lane (Action PRT-TC-1.3) [26]

Consistent with LUP Policy 7-8, the County shall accept and open the vertical easements for public beach access offered in connection with developments on Padaro Lane. The County shall pursue, to the extent feasible, developing public beach access on Padaro Lane, provided the County Board of Supervisors finds, based on substantial evidence, that there are insufficient opportunities for public access to the beach elsewhere in the Plan area. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. The County shall include appropriate improvements in any project to open beach access, possibly including but not necessarily limited to signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, and other appropriate features for the beach access. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The siting of the beach access shall minimize removal of native trees and eucalyptus trees that are part of a monarch butterfly aggregation site.

14. Circulation (New DevStd under Policy CIRC-TC-1) [34]

Improvements along Route 192/ Foothill Road should be developed in a manner consistent with bicycle and pedestrian safety, and should be designed for improved bicycle access.

15. Water Quality (Policy WW-TC-2; New Policies under WW) [38, 48, 56]

a. ~~Pollution~~ Development shall avoid the introduction of pollutants into of surface, ground and ocean waters shall be avoided. Where avoidance is not feasible, ~~pollution~~ the introduction of pollutants shall be minimized to the maximum extent feasible.

b. Confined animal facilities shall be sited, designed, managed and maintained to prevent discharge of sediment, nutrients and contaminants to surface and groundwater. In no case shall an animal keeping operation be sited, designed, managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel.

c. Development shall avoid, to the maximum extent feasible, adverse impacts to the biological productivity and quality of coastal streams, wetlands, bays, estuaries, lakes and the ocean. This

shall be accomplished through the implementation of the County's Draft Storm Water Management Program (SWMP) dated August 8, 2003, which is hereby incorporated by reference into this LCP amendment. Any potential updates to the SWMP will be submitted to the CCC on an annual basis as potential LCP amendments.

d. Development shall protect the absorption, purification, and retention functions of natural drainage systems that exist on the site. Where feasible, drainage and project plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner.

16. OSTS (New DevStd under Policy WW-TC-2) [43, 44]

a. Development that includes new OSTS(s) or expansion of existing OSTS(s), with a subsurface sewage effluent dispersal system that is within 100 feet of a beach, shall provide secondary or tertiary effluent treatment prior to discharging to that dispersal system.

b. Development shall not be approved where individual or cumulative impacts of septic systems for new development would cause pollution of creeks and ocean waters, unless this would preclude reasonable use of property. Where such development is approved to allow reasonable use of property, it shall provide for secondary or tertiary effluent treatment prior to discharging to any subsurface sewage effluent dispersal system.

17. ESH Mapping (New DevStds under Policy BIO-TC-1) [78]

Any area mapped, or otherwise identified through historic evidence, as ESH shall not be deprived of protection as ESH, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

18. ESH Overlay Delineation (DevStd BIO-TC-1.3) [70]

The process for delineating the exact boundary of the ESH occurs during an application for development. In the inland areas, the ESH Overlay regulations identify the methodology used to delineate the ESH during the development application review process, and include procedures to review ESH determinations (see Inland zoning ordinance Article III – ESH-TCP Overlay, Section 35-250E). In the Coastal Zone, Local Coastal Program Policy 9-1 and the implementing Coastal zoning ordinance (Article II – ESH Overlay, Section 35-97) identify the process to delineate the ESH.

The County shall determine the physical extent of habitat meeting the definition of ESH on the project site, based on a site-specific biological study as described in Article II Section 35-194, prepared by a qualified biologist or environmental specialist.

19. ESH Buffers (DevStd BIO-TC-1.4) [72]

Development shall be required to include the following buffer areas from the boundaries of Environmentally Sensitive Habitat (ESH):

- Southern Coast Live Oak Riparian Forest corridors and streams- 100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Existing Developed Rural Neighborhoods (EDRN)/Rural

Neighborhoods, as measured from the outer edge of the canopy or the top of creek bank¹, whichever is greater. When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner-rural areas, and EDRN/Rural Neighborhoods from the outside edge of the Southern Coast Live Oak Riparian Forest canopy;

- Coast Live Oak Forests - 25 feet from edge of canopy;
- Monarch butterfly habitat- minimum 50 feet from any side of the habitat;
- Native grassland, a minimum ¼ acre in size— 25 feet;
- Coastal Sage – minimum 20 feet;
- Scrub oak chaparral – 25 feet from edge of canopy;
- Wetlands – minimum 100 feet; and
- Buffer areas from other types of ESH shall be determined on a case-by case basis. These buffer areas, except for Monarch butterfly habitat, wetlands and Southern Coast Live Oak Riparian Forests and streams, may be adjusted upward or downward on a case-by-case basis given site specific conditions. Adjustment of the buffer shall be based upon site-specific conditions such as slopes, biological resources, and erosion potential, as evaluated and determined by Planning and Development and in consultation with other County agencies, such as Environmental Health Services and the Flood Control District. Adjustment of the Southern Coast Live Oak Riparian Forest buffer areas shall be based upon an investigation of the following factors and after consultation with the Department of Fish & Game and the Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams, creeks and wetlands: 1. Existing vegetation, soil type and stability of the riparian corridors; 2. How surface water filters into the ground; 3. Slope of the land on either side of the riparian waterway; 4. Location of the 100 year flood plain boundary; and 5. Consistency with the adopted Local Coastal Plan or the Comprehensive Plan, particularly the Biological Resources policies. In all cases listed above, buffer areas may be adjusted in order to avoid precluding reasonable use of property consistent with applicable law.

20. ESH & ESH Buffer (New DevStd under Policy BIO-TC-1) [73, 76, 77, 85]

Development in or adjacent to ESH or ESH Buffer shall meet the following standards:

a. Wherever lighting associated with development adjacent to ESH cannot be avoided, exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESH in order to minimize impacts on wildlife. High intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH shall be prohibited.

b. Public accessways and trails located within or adjacent to ESH shall be sited to minimize impacts to ESH to the maximum extent feasible. Measures, including but not limited to, signage, placement of boardwalks, and limited fencing shall be implemented as necessary to protect ESH. Trails shall be sited outside of riparian areas with limited exceptions for crossings. Where no other feasible alternative exists, public accessways and trails may be a permitted use in Environmentally Sensitive Habitat Areas. Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis. Where seasonal closures occur, alternative trail segments shall be provided where feasible.

¹ “Top of creek bank” is identified differently by the Flood Control District for flood control purposes and by Environmental Health Services for the location of septic systems. For the purposes of the habitat protection policies and development standards of this Plan, the “top of creek bank” shall be defined as the recognized geologic top of slope.

c. The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat, shall be prohibited within and adjacent to ESH, where application of such substances would impact the ESH, except where no other feasible alternative exists and where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the breeding/nesting season of sensitive species that may be affected by the proposed activities, winter season, or when rain is predicted within a week of application.

d. As a condition of approval of new development adjacent to coastal sage scrub and native grassland, the applicant shall plant the associated ESH buffer areas with appropriate locally native plants.

21. ESH Economic Viability Determination (New DevStd under Policy BIO-TC-1) [79, 80]

a. If the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat (ESH) area or ESH buffer would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic viability determination as required in Article II Section 35-194.

In addition, the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESH or ESH buffer that cannot be avoided through the implementation of siting and design alternatives shall be mitigated to the maximum extent feasible, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on-site. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid adverse impacts to ESH and ESH buffer.

b. To evaluate whether a restriction would not provide an economically viable use of property as a result of the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat area or ESH buffer, an applicant must provide the information about resources present on the property that is needed to determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope/nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined.

22. ESH Wetlands (New DevStd under Policy BIO-TC-1) [75]

The drainages ditches on the north side of Padaro Lane and south side of Santa Claus Lane, mapped as Wetland (Not ESH) on the Toro Canyon Plan ESH Overlay Map, which were built to convey floodwaters, shall not be subject to the required wetland buffer and may be maintained by the Flood Control District. Maintenance shall not result in the enlargement, extension, or expansion of the existing drainage channels, but shall be limited to the removal of vegetation, debris, and sediment buildup.

23. Landscaping/Invasive Species (Policy BIO-TC-2; DevStd BIO-TC-2.2; New DevStd under Policy BIO-TC-2) [81, 82, 83]

a. Landscaping for development shall use appropriate plant species to ensure compatibility with and preservation of ESH. All landscaping shall utilize only non-invasive plants.

b. Development otherwise requiring a Landscape Plan outside ESH and ESH buffer areas, shall ~~be limited to utilize only non-invasive plants within 500' from the ESH resource~~ (see Appendix H, *List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas*).

c. Habitat restoration and invasive plant eradication may be permitted within ESH and ESH buffer areas if designed to protect and enhance habitat values provided that all activities occur outside of the breeding/nesting season of sensitive species that may be affected by the proposed activities. Habitat restoration activities shall use hand removal methods to the maximum extent feasible. Where removal by hand is not feasible, mechanical means may be allowed. Use of pesticides or other chemical techniques shall be avoided to the maximum extent feasible, and when determined to be necessary, shall include mitigation measures to ensure site-specific application with no migration to the surrounding environment.

24. Fuel Modification (DevStd BIO-TC-4.3) [88, 89]

Significant vegetation fuel management² within ESH and ESH buffer areas implemented in association with existing development may be permitted where, subject to a coastal development permit, findings are made that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible consistent with Coastal Act Sections 30001.5(b), 30007.5, 30010, 30200(b), 30240, and 30253(1). New development requiring vegetation fuel management within ESH and ESH buffer areas may only be permitted where, subject to a coastal development permit, findings are made that the proposed fuel modification overlaps fuel modification zones associated with existing legal development to the maximum extent feasible and/or that any fuel modification within ESH or ESH buffer is the minimum amount necessary to protect the structure(s) and that all feasible measures including reduction in scale of development, use of alternative materials, and siting have been implemented to reduce encroachment into ESH and ESH buffer.

The coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESH.

25. Agricultural Infrastructure (DevStd BIO-TC-4.4; Move to LUA) [90]

~~In resolving conflicts between Coastal Act policies pursuant to Coastal Act Section 30007.5, t~~The County should ensure that essential infrastructure for existing agricultural production is protected and maintained.

26. ESH & ESH Buffers in EDRNs (Policy BIO-TC-5; DevStd BIO-TC-5.1; New DevStd under Policy BIO-TC-5) [91, 92, 97]

~~a. Due to the existing land subdivision and built environment in t~~The Rural Neighborhoods of Torito Road, Serena Park, La Mirada Drive and Ocean Oaks Road, where existing structures and related landscaped areas are within the ESH buffer and not part of the ESH itself, structural additions to the existing primary residence may main and secondary dwelling units shall be allowed limited encroachment into ESH buffer areas if it can be shown, pursuant to the required site-specific biological study, that such development shall not adversely impact the adjacent riparian species and meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species. Additions shall also comply with development standards in subject to DevStd BIO-TC-5.1 through DevStd BIO-TC-5.34.

b. For existing lawfully constructed primary residences in Existing Developed Rural Neighborhoods ~~residential structures in any zone district and existing agricultural support structures on~~

~~agriculturally-zoned property (as defined in the TCP Overlay District) located within designated ESH buffer areas or adjacent to ESH, structural additions or improvements shall be scaled, sited, and designed to avoid ground disturbance to protect the ESH resource to the maximum extent feasible. Site design and appropriate scale of the addition shall conform to~~ in conformance with the following guidelines-standards: a. Second story additions shall be considered the preferred design alternative to avoid ground disturbance ~~with limited canopy reduction including limbing of oaks and sycamores;~~ b. Additions shall be allowed only if they: are located a minimum of 6 feet from any oak or sycamore canopy dripline; do not require removal of oak or sycamore trees; do not require any additional pruning or limbing of oak or sycamore trees beyond what is currently required for the primary residence for life and safety; minimize disturbance to the root zones of oak or sycamore trees to the maximum extent feasible (e.g., through measures such as raised foundation or root bridges); preserve habitat trees for Monarch Butterflies and nesting raptors (subject to restricted pruning during nesting season) and do not extend new areas of fuel modification into ESH areas. b ~~c. Where the existing structure is located only partially inside an ESH or ESH buffer area,~~ a ~~Additions shall be located on those portions of the structure located outside or away from the ESH or ESH buffer area. If the subject development cannot be located away from ESH, then the extension of a ground level development footprint shall be denied. d. Improvements, such as decomposed granite pathways or alternative patios, may be allowed in existing developed areas within the dripline of oak and sycamore trees if such improvement are permeable, and do not require compaction of soil in the root zone.~~

c. The reconstruction of a lawfully established primary residence in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.

27. Stream Modification (Policy BIO-TC-11) [99]

~~Natural stream channels shall be maintained in an undisturbed state to the maximum extent feasible in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts, except as allowed under Policy FLD-TC- [cross reference to suggested modification 31]. “Hardbank” channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a Restoration Plan.~~

28. Tree Protection (DevStd BIO-TC-13.1; DevStd BIO-TC-13.2; Policy BIO-TC-14) [102, 103]

a. A “native protected tree” is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a “non-native protected tree” is at least 25 inches in diameter at this height. Areas to be protected from grading, paving, and other disturbances shall ~~generally include,~~ at a minimum, the area six feet outside of tree driplines.

b. Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be fully mitigated and replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.

29. Vacant Lands (New Policy under BIO) [105]

The conversion of vacant land in ESH, ESH buffer, or on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use shall not be permitted. Existing, legally established agricultural uses shall be allowed to continue.

30. Flood Control (DevStd FLD-TC-1.2; DevStd FLD-TC-1.3) [108, 109]

~~a. No development shall be permitted within the floodplains of Toro, Picay, Garrapata, or Arroyo Paredon Creeks unless such development would be necessary to: • Permit reasonable use of property while mitigating to the maximum extent feasible the disturbance or removal of significant riparian/wetland vegetation; or • Accomplish a major public policy goal of the Toro Canyon Plan or other beneficial projects approved by the Board of Supervisors. In the Coastal Zone, floodplain development also must be consistent with the state Coastal Act and the county's Local Coastal Program.~~

b. Development requiring raised finished floor elevations in areas prone to flooding shall be constructed on raised foundations rather than fill material, ~~where feasible.~~

31. Flood Control (New DevStd under Policy FLD-TC-1) [113, 115]

Any channelization, stream alteration, or desiltation/dredging projects permitted for flood protection shall only be approved where there is no other feasible alternative and consistent with the following:

(1) Flood control protection shall be the least environmentally damaging alternative consistent with all applicable policies of the Local Coastal Program and shall consider less intrusive solutions as a first priority over engineering structural solutions. Less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) shall be preferred for flood protection over "hard" solutions such as concrete or riprap channels. "Hardbank" measures (e.g., use of concrete, riprap, gabion baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible.

(2) The project shall include maximum feasible mitigation measures to mitigate unavoidable adverse impacts. Where hardbank channelization is required, site restoration and mitigation on or adjacent to the stream channel shall be required, subject to a restoration plan.

(3) Flood control measures shall not diminish or change stream capacity, percolation rates or habitat values.

32. Flood Control (Action FLD-TC-1.5; Policy FLD-TC-3) [116, 121]

a. In order to address drainage issues along the southeastern portion of Padaro Lane, the county shall initiate an investigation of feasible engineering and maintenance solutions involving all affected parties, including but not necessarily limited to residents and upstream property owners, the County Public Works Department including the Flood Control District, Caltrans, and the Union Pacific Railroad. This investigation shall consider the preliminary engineering study commissioned by the Padaro Lane Association in the 1990s. Local drainageways and culverts should be cleared annually or as necessary. The study shall consider less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) as the primary means of defense against flood hazard and shall require maximum feasible mitigation for all impacts to wetland, riparian, or other native trees and habitat.

b. Flood control maintenance activities ~~shall seek to minimize disturbance to riparian/wetland habitats, consistent with the primary need to protect public safety. Additional guidance for public maintenance work is provided by the Flood Control District's current certified Maintenance Program EIR and current approved Standard Maintenance Practices. Work should be conducted in a manner that attempts to maintain coastal sand supply where feasible.~~

33. Slope Requirements (DevStd GEO-TC-1.1; New DevStd under Policy GEO-TC-1) [126, 127, 172 in part]

a. Development shall be prohibited on slopes greater than 30% except for the following, unless this would prevent reasonable use of property:

(1) Driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.

(2) Where all feasible building sites are constrained by greater than 30% slopes, the uses of the property and the siting, design, and size of any development approved on parcels, shall be limited, restricted, and/or conditioned to minimize impacts to coastal waters, downstream properties, and rural character on and adjacent to the property, to the maximum extent feasible. In no case shall the approved development exceed the maximum allowable development area. The maximum allowable development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites include areas of greater than 30% slope shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. Mitigation of adverse impacts to hillside stability, coastal waters, downstream properties, and rural character that cannot be avoided through the implementation of siting and design alternatives shall be required.

b. In areas of unstable soils, highly erosive soils, or on slopes between 20% and 30%, development shall not be allowed unless an evaluation by a qualified professional (e.g., soils engineer, geologist, etc.) establishes that the proposed project will not result in unstable slopes or severe erosion, ~~or unless this would prevent reasonable use of property.~~ Grading and other site preparation shall be minimized to the maximum extent feasible.

c. Any disturbed area on the subject parcel(s) where previous permits or other historic evidence cannot be provided to prove that the removal of vegetation and grading disturbance occurred pursuant to proper authorization, the County review shall presume that the removal was not legally permitted and the subject area(s) shall be restored, unless an after-the-fact coastal development

permit is issued consistent with all current standards of the LCP. The County shall not recognize unauthorized vegetation removal or grading, and shall not predicate any approval on the basis that vegetation has been illegally removed or degraded.

34. Stream Crossings (New Policy under GEO) [131]

New roads, bridges, culverts, and outfalls shall not cause or contribute to streambank or hillside erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality including construction phase erosion control and polluted runoff control plans, and soil stabilization practices. New stream crossings within the coastal zone, including replacement of an existing stream crossing, shall be bridged. Where feasible, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.

35. Shoreline Protection Structures (DevStd GEO-TC-4.3; New DevStd under Policy GEO-TC-4) [134, 135, 137, 141, 143, 144, 145, 146, 147]

A. Shoreline and bluff development and protection structures shall be in conformance with the following standards:

1. New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave uprush) at any time during the full projected 100-year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and setback as far landward as possible. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure, including hazards associated with anticipated future changes in sea level.

2. New development on or along the shoreline or a coastal bluff shall site septic systems as far landward as possible in order to avoid the need for protective devices to the maximum extent feasible. Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. New development includes demolition and rebuild of structures, substantial remodels, and redevelopment of the site.

~~3. New shoreline protection devices may be permitted where consistent with the state Coastal Act and Coastal Plan Policy 3-1, and where (i) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan, or (ii) the device is proposed to fill a gap between existing shoreline protection devices and the proposed device is consistent with the height and seaward extent of the nearest existing devices on upcoast and downcoast properties. Repair and maintenance, including replacement, of legal shoreline protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted² height or previously permitted² seaward extent of such devices, and shall not increase any interference with legal public coastal access.~~

4. All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when

² For devices that pre-date permit requirements, this would be the as-built height and seaward extent of the structure.

such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.

5. Where it is determined to be necessary to provide shoreline protection for an existing residential structure built at sand level a “vertical” seawall shall be the preferred means of protection. Rock revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative.

B. Where new development is approved on a beach or oceanfront bluff, conditions of approval shall include, but not be limited to, the following as applicable

1. As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

2. As a condition of approval of a shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the County determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.

3. As a condition of approval of new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.

36. Archaeology (New DevStd under Policy HA-TC-1) [148]

The County shall consult with the Native American Heritage Commission, State Historic Preservation Officer, and the Most Likely Descendant during each stage of the cultural resources review to determine whether the project may have an adverse impact on an important cultural resource.

37. Ridgeline Development (DevStd VIS-TC-1.3; DevStd VIS-TC-2.3) [150, 151]

a. ~~In urban areas, d~~Development shall not occur on ridgelines if suitable alternative locations are available on the property. When there is no other suitable alternative location, structures shall not intrude into the skyline or be conspicuously visible from public viewing places. Additional measures such as an appropriate landscape plan and limiting the height of the building may be required in these cases.

b. ~~Consistent with applicable ordinances, policies, development standards, and the Constrained Site Guidelines, s~~Structures shall be sited and designed to minimize the need for vegetation clearance for fuel management zone buffers. Where feasible, necessary roads and driveways shall be used as or incorporated into fuel management zones.

38. Trail Siting Guidelines (Appendix E) [153]

Section II. C. Fences constructed along trail corridors should allow for wildlife movement, ~~to the greatest extent feasible.~~

Section III. A. Where appropriate (e.g., adjacent to existing agricultural operations, buildings, residences, etc.), the County should construct fencing between the trail and private land uses. County Parks shall determine on a case-by-case basis appropriate fencing design and type. The County should consider landowner input on fence design. ~~To the greatest extent feasible, f~~Fencing ~~should~~ shall not hinder the safety or the natural movement and migration of animals and should be aesthetically pleasing.

Section V. B. ~~Where appropriate, v~~Vehicle barriers (e.g., steel access gates) should be constructed at trailheads to prevent unauthorized motor vehicle access, while allowing hikers, bicyclists, equestrians, and authorized motor vehicles for emergency, maintenance, or to provide access to private in-holdings to access the trail. Internal access control barriers (i.e., any combination of steel gates, chain link or barbed wire fence may be necessary) should also be installed along trails at appropriate “choke points” (e.g., placement of barriers utilizing natural topography and/or trail user decision points) in order to keep trail users on the established trail route and prevent trespass and/or further entry into private property and/or environmentally sensitive areas. Trails may be designed for bicycle use where resource damage such as loss of vegetation or increased erosion would not result. Where evidence that authorized bicycle use is damaging resources, future use by bicycles may thereafter be temporarily or permanently prohibited.

C. Before the County permits public use of any acquired trail right-of-way, ~~adequate~~ approved fencing consistent with resource protection and other precautions (such as signage) should be installed to prevent vandalism to neighboring properties and appropriate trailheads should be acquired and constructed to provide for the public safety.

39. Invasive Plant List [154]

Appendix H List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas;
Delete all references to the words “Near ESH Areas”

40. Non-Certified Language [155, 156]

All policies, development standards, and actions listed in Exhibit 17 shall be marked within the Toro Canyon Plan with a footnote or other identifying symbol such that it is clearly evident that such policies, provisions, or other standards are not certified as part of the Local Coastal Program.

The following text shall be added at the end of Section I.C “Overview of the Toro Canyon Plan:”

Local Coastal Program

This Plan is designed to be consistent with the California Coastal Act, the Santa Barbara County Coastal Plan, and the provisions of Article II. Goals, policies, actions, and development standards within this document shall be applicable within the Toro Canyon Plan area. However, provisions of this Plan denoted with an asterisk shall not be certified by the Coastal Commission and therefore shall not be the basis of appeal of a local Coastal Development Permit to the Coastal Commission.

41. Coastal Zone Boundary [157]

All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, and the Land Use Plan Map shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.

42. Agriculture Conversion [158]

The seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) designated as Single Family Residential Minimum 2 acre on the Toro Canyon Land Use Designations Map, located northeast of the intersection of Foothill and Toro Canyon Roads, shall be designated A-I-40. All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.

43. ESH Map [160, 161, 162, 163]

The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be modified as follows:

a. Modify text on Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map legend as follows: “(Within these areas, ~~the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only;~~ the extent of any associated riparian habitat must be determined by site-specific review)

b. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to:

- A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.*
- B. Apply the Monarch Butterfly Habitat designation to the area at 3197 Padaro Lane as illustrated in Exhibit 6 of this staff report.*

c. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.

d. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.

VI. SUGGESTED MODIFICATIONS ON THE IMPLEMENTATION PROGRAM/COASTAL ZONING ORDINANCE (IP/CZO)

44. Coastal Zone Boundary [164]

All figures and maps submitted as part of the IP Amendment, including Zoning and Overlay maps, shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.

45. ESH Map [165, 166, 167, 168]

The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be modified as follows:

a. Modify text on Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map legend as follows: “(Within these areas, ~~the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only;~~ the extent of any associated riparian habitat must be determined by site-specific review)

b. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to:

A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.

B. Apply the Monarch Butterfly Habitat designation to the area at 3197 Padaro Lane as illustrated in Exhibit 6 of this staff report.

c. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.

d. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.

46. Agriculture Conversion [169]

The seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) designated as Single Family Residential 2-E-1 on the Zoning Map, located northeast of the intersection of Foothill and Toro Canyon Roads, shall be designated AG-I-40.

47. Toro Canyon Plan Overlay District [172]

Amend proposed Section 35-194 of the Zoning Code (Exhibit 3) as follows:

Sec. 35-194. General

The provisions of this Division implement portions of Toro Canyon Plan components of the County's Local Coastal Plan and ~~serve to carry out certain policies of this Community Plan.~~

The provisions of this Division are in addition to the other provisions of this Article. Where provisions of this Division conflict with other provisions of this Article, the specific provisions of this Division shall take precedence. The development standards and actions within the Toro Canyon Plan are incorporated by reference within this Overlay District.

Sec. 35-194.1 Applicability

The provisions of this section apply to the Toro Canyon Plan Area as defined by the "Toro Canyon Plan Land Use Map." All provisions of the Toro Canyon Plan, Coastal Land Use Plan and applicable portions of the Comprehensive Plan, including all applicable goals, objectives, policies, actions, development standards and design guidelines, shall also apply to the area zoned with ~~the TORO~~ this Overlay District.

Section 35-194.2 Processing

A. In addition to other application requirements, applications for a coastal development permit for any new development on property that is within or adjacent to ESH, in this district shall include a detailed biological study of the site, prepared by a qualified biologist, or resource specialist. Such a study would include an analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.

Sec. 35-194.23 C-1 Zone District

1. All uses listed in the C-1 Zone District of this article shall be allowed in the C-1 Zone District of Toro Canyon except:

- Any single family residence where there is no commercial use;

- Financial institutions;

- General business offices (such as real estate offices and general practitioner's offices);

- Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;

- ~~Residential structures and general practitioner's/professional offices~~ only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. ~~Residential and professional office uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. Office uses shall be in less prominent locations than retail uses on the same site;~~

- Seafood processing and video arcades shall be allowed only as secondary uses to a primary use such as a restaurant and only when conducted entirely within an enclosed building.

2. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon:

- Hotels and motels;

- Mini-mart/convenience stores;

3. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon with a Major CUP:

- Overnight recreation vehicle facilities.

Secondary to a primary commercial use is defined as: a) A land use subordinate or accessory to a principal land use. b) When used in reference to residential use in conjunction with commercial and industrial uses in this Article, secondary shall mean two residential bedrooms per one thousand (1,000) square feet of total gross floor area of commercial or industrial development. However, in no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial or industrial use. Gross floor area shall not include parking areas.

Sec. 35-194.34 Findings

...

Sec. 35-194.45 Nonconforming Structures and Uses

1. Nonconforming residential structures damaged or destroyed by calamity: Any nonconforming residential structure that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall mean primary dwellings, secondary dwellings including Residential Second Units, guesthouses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage existed, one detached private garage structure may be included provided that it meets the provisions of the Toro Canyon Plan and the certified LCP and evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

2. The reconstruction of a lawfully established primary residence in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.

~~2. Residential structures that are nonconforming solely due to the Toro Canyon Plan: Any residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section,~~

~~“residential structure” shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure’s use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner’s first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.~~

3. Expansion of a legal nonconforming primary residence ~~residential structures~~ located within Environmentally Sensitive Habitat (ESH) buffer areas in an Existing Developed Rural Neighborhood: Any primary residence ~~residential structure~~ that is nonconforming solely due to its location within an ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with DevStdS BIO-TC-5.1 and BIO-TC-5.34 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. ~~For the purpose of this section, “residential structure” shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure’s use as a private garage is presented to the satisfaction of the Zoning Administrator.~~

4. Nonconforming agricultural support structures other than greenhouse development: Any nonconforming agricultural support structure, ~~other than “greenhouse development” as defined in the Carpinteria Agricultural (CA) Overlay,~~ that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “agricultural support structure” shall mean any structure, other than “greenhouse development” as defined in the CA Overlay, that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article. ~~Nonconforming “greenhouse development” as defined in the CA Overlay shall be subject to the provisions of the CA Overlay.~~

~~5. Agricultural support structures that are nonconforming solely due to the Toro Canyon Plan: Any agricultural support structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twentyfour (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.~~

~~6. Expansion of nonconforming agricultural support structures located within Environmentally Sensitive Habitat (ESH) areas or ESH buffer areas: Any agricultural support structure that is nonconforming solely due to its location within an ESH area or ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with Development Standards BIO-TC-5.1 and BIO-TC-5.3 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally-zoned property.~~

~~7. Nonconforming nonresidential structures: Any nonconforming nonresidential structure that is damaged or destroyed to an extent of seventy-five percent (75%) or more of its replacement cost at the time of damage by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed, provided that such reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. In addition, any nonconforming nonresidential structure that requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot may be repaired or reconstructed, provided that such repair or reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. Such a structure may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that:~~

- ~~i. The Zoning Administrator finds that the public health and safety will not be jeopardized in any way by such reconstruction or structural repair; and~~
- ~~ii. The Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship that would be suffered by the owner(s) of the structure should reconstruction or structural repair of the nonconforming structure be denied.~~

~~Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of damage or destruction, or the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with~~

the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

...

9. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.

...

Sec. 35-194.56 Architectural Review Standards

...

Sec. 35-194.7 Economically Viable Use

If it is asserted that the application of the policies and standards contained in this LCP regarding use of property within the Toro Canyon Plan area that is designated as ESH would constitute a taking of private property, the applicant shall apply for an economical viability determination in conjunction with their coastal development permit application and shall be subject to the provisions of this section.

Sec. 35-194.8 Economically Viable Use Determination

The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information:

- a. The date the applicant purchased or otherwise acquired the property, and from whom.
- b. The purchase price paid by the applicant for the property.
- c. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
- d. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
- e. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
- f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.

g. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.

h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.

i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.

j. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.

k. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.

l. Any additional information that the County requires to make the determination.

Sec. 35-194.9 Supplemental Findings for Approval of Coastal Development Permit

1. A coastal development permit for use other than those permitted in the ESH overlay and Toro Canyon Plan provisions may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):

a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the ESH Overlay would not provide an economically viable use of the applicant's property.

b. Application of the ESH standards would interfere with the applicant's investment-backed expectations.

c. The use proposed by the applicant is consistent with the applicable zoning.

d. The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises.

e. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception is requested.

f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.

Sec. 35-194.10 Agricultural Soils

Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.

Sec. 35-194.11 Land Divisions

Land divisions, including lot line adjustments and conditional certificates of compliance, shall only be permitted if each parcel being established could be developed without adversely

impacting resources, consistent with Toro Canyon Plan policies and other applicable provisions.

VII.FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE LOCAL COASTAL PROGRAM IF MODIFIED AS SUGGESTED

The attached staff report dated September 24, 2003 provides the findings in support of the Commission's denial of the LCP amendment as submitted, and approval of the LCP amendment if modified as indicated in Section IV, V, and VI (*Suggested Modifications*) above. Because the changes in the staff recommendation reflect a consolidation and general reduction in suggested modifications and the overarching topics remain the same, the findings in the September 24, 2003 report for the general resource sections (LCP Organization and Implementation, Scenic and Visual, Hazards, Watershed Protection, Agriculture, ESH, Public Access and Land Use) are adequate to support the revised recommendation. The Commission hereby finds and declares that the September 24, 2003 staff report (attached) incorporates all applicable findings for the revised staff recommendation, with the exception of Water Quality, which is provided below.

The following shall replace Section VII.E.8 of the September 24, 2003 staff report:

Water Quality

The Toro Canyon Planning Area lies within the Toro Creek and Arroyo Paredon Creek Watersheds. Numerous coastal creeks drain from these watersheds into the Pacific Ocean and Santa Barbara Channel, where valuable coastal resources and popular public recreation areas and activities exist. Maintaining and restoring water quality throughout the Toro Canyon Planning Area watersheds is necessary to protect the sensitive coastal resources and public amenities that exist in these areas.

The Commission shares responsibility for regulating nonpoint source water pollution in the Coastal Zone of California with the State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB have been co-leads in developing and implementing the January 2000 *Plan for California's Nonpoint Source Pollution Control Program* (Plan), which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. Some of these management measures and practices are best implemented at the local planning level, since they can be most cost effective during the design stage of development. The Commission and the Central Coast Regional Water Quality Control Board (CCRWQCB) are working in collaboration to protect water quality in the Santa Barbara area.

The Commission recognizes that new development in the County of Santa Barbara and especially the Toro Canyon area has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

New development often results in an increase in impervious surface, thereby reducing the proportion of precipitation that is retained on site by infiltration. As a consequence, there is an increase in the volume and velocity of stormwater that runs off the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation begins. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion and sedimentation.

Further, pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;
- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;
- acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health.

The goal of the Toro Canyon Plan water quality policies is to protect and enhance water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The objectives of the policies are three-fold:

- Protect, enhance and restore natural drainages, wetlands, streams, and groundwater recharge areas.
- Promote the elimination of pollutant discharge, including nonpoint source pollution, into the County's waters through new construction and development regulation including but not limited to site planning, environmental review and mitigation, and permit conditions of approval.
- Promote Best Management Practices to limit water quality impacts from existing development.

The Toro Canyon Plan contains several policies to meet the goal of protecting and enhancing water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The majority of these policies are contained under the heading Wastewater and Water, although there are also policies relating to water quality within the Biological Resources, Flooding and Drainage, and Geology, Hillsides and Topography sections. As mentioned above, wastewater discharge has the potential to contribute pollutants to runoff. Two policies relating to wastewater have been modified or added to the existing policies. These include suggested modification 16, which reflects the overall intent of Coastal Act Section 30231 to protect the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean from the adverse impacts of wastewater and stormwater. Suggested modification 16 provides special wastewater protection for beachfront development, as this land use has a higher potential to impact water quality due to its proximity to coastal waters. Development including confined animal facilities is also required to protect water quality through siting, design, management and maintenance requirements, as this land use has the potential to contribute pollutants such as nutrients and pathogens to coastal waters. These requirements are reflected in suggested modification 15.

Based on the need to regulate land use in order to protect water quality, the SWRCB has provided guidance and requirements in its Phase II National Pollutant Discharge Elimination System (NPDES) Permit for land use development that may impact water quality. The County of Santa Barbara has responded to these Phase II requirements by developing a Draft Storm Water Management Program (SWMP) and submitting this SWMP to the CCRWQCB on August 8, 2003 for review and approval. The CCC Water Quality Unit staff have reviewed the SWMP and provided comments to the County.

This SWMP is a comprehensive program addressing the impacts of stormwater and polluted runoff on water quality, and identifying measures and activities to reduce these impacts, including requirements related to siting and design of development, the construction phase of the project, and the post-construction phase of the project. The SWMP requires that development incorporate measures to protect water quality, and establishes a permit review process to identify impacts and ensure that water quality protection measures are

implemented. Suggested modification 15 requires the incorporation by reference and implementation of the SWMP. The County will be required to review the SWMP for potential updates on an annual basis and submit any changes to the SWMP as potential LCP amendments.

These policies contained in the Toro Canyon Plan provide for the protection and enhancement of water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. Therefore, the Commission finds that the Toro Canyon Plan meets the requirements of and is in conformity with Section 30231 of the Coastal Act.